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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,852	10/21/2003	Christopher Stevens	75144-011500	6937

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GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
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EXAMINER

LEIVA, FRANK M

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/690,852	Applicant(s) STEVENS ET AL.	
	Examiner Frank M. Leiva	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-15 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-15 and 17-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to the applicant's communications filed 02/20/2007.
Claims 5 and 16 cancellations and amendments to claims 1 and 12 are acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jasper et al. (US 6,702,670 B2).**

Jasper et al. (US 6,702,670 B2) teaches:

4. **Regarding claims 1, 4, 6, 12, and 15, Jasper et al. teaches:**
 - a. A gaming machine and all its parts that comprise a standard gaming machine (display, credit window, win meter, coin and bill acceptor, and a button panel). (Fig 2, Col 3:62-67).
 - b. A random event is cause to be displayed. (Col 6:33-41,64-67).
 - c. If a predefined winning occurs, the machine awards the prize. (Col 1:11-24).
 - d. A game feature or bonus round in which the player is given an option to continue and play the bonus or stop and start another game. (Col 1:56-67, Col 2:1-5).
5. **Regarding claim 2 and 13, Jasper et al. teaches the game feature second display if triggered. (Fig. 1 and Col 6:1-8).**
6. **Regarding claims 5 and 16, Jasper et al. teaches the outcome of the first game must be successful in order to initiate the bonus round. (Fig 1).**
7. **Regarding claim 10, Jasper et al. teaches the button panel. (Fig 2).**

Jasper et al. (US 6,702,670 B2) fails to teach:

8. **Regarding claims 11 and 21, Jasper et al. teaches the loss of winnings if the outcome is unsuccessful, but it fails to teach the loss of only half the winnings of the bonus**

round. The examiner claims that it would be an obvious design choice to let the player keep some of the winnings as a consolation prize, so that the player would risk going for the bonus more often and lowering the game payback ratio in favor of the house.

9. **Regarding claim 3 and 14**, Jasper et al. does not show an icon in Fig. 2 pointing to the Pay Table glass that would show on the belly or the top glass on the machine, the examiner takes official notice that displaying the games pay table is require by gaming regulations in all USA gaming jurisdiction.

10. **Regarding claims 1, 4, 6, 12, and 15**, Jasper et al. teaches, forfeiture of winnings upon an unsuccessful outcome, said portion to be all the winnings, "but not all" is known to be a consolation prize, notoriously well known feature, motivated to improve costumer satisfaction. (Col 3:20-25).

11. **Claims 6-9, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jasper as applied to claims 9 and 20 above, and further in view of official notice.**

12. **Regarding claims 9 and 20**, examiner takes official notice that all games must have a calculated percentage sheet whereas the pay table and game expected win is calculated. These odd calculations are not novel but required for the implementation of any gaming device, and vary according to the game playing features. It would not only be obvious but necessary for one having ordinary skill in the art, at the time of the applicant's invention, to incorporate these paytables and calculations in the design and reporting of these machines. One would be motivated to do so to comply with gaming regulations. Please review documentation (Nevada Gaming Commission, Minimum Internal Controls Standards, and the University of Reno Class Slots 101), not supplied but cited references as support for official notice.

13. **Regarding claims 6-8, and 17-19**, Jasper et al. teaches that the probability of the game feature (bonus rounds) is different from the standard game and can vary in many ways. (Col 7:8-11, Col 8:1-20). The examiner takes official notice that the choice to pay more in one bonus and less in another is clearly a design choice and that the game would not be affected by the these differences as admitted by applicant in the effort of claiming 3 different embodiments for the bonuses in claims 6, 7, and 8.

14. Claims 1 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jasper as applied to claims 1 and 12 above, and further in view of Bennett (US 6,835,132) hereinafter Bennett.

15. Regarding claims 1 and 12, Jasper does not teach a guaranteed successful outcome, whereas Bennett discloses the use of a consolation prize for the player to have at least have gotten the bonus round, and even though the character failed to achieve the goal, the player got something. A consolation prize is another form of guaranteed win, (Col. 4:28-39). It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Bennett's bonus feature in combination with Jasper's invention. One would be motivated to do so because this gives the player the pleasure of at least gotten something by getting the bonus indicators, and didn't leave the game empty handed.

Citation of prior art

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lemay et al. US 2002/0010018 teaches the forfeiture of winnings on a bonus game, Jaffe US 6254481 reel-em-in game teaches the release of a small fish to go for a bigger one, Gura US 6159097 teaches about variable bonus probabilities. Glasson (US 6,755,738) consolation prize. DeMar et al (US 2002/0142823 A1) bonus round progression.

Response to Arguments

17. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Leiva whose telephone number is (571) 272-2460. The examiner can normally be reached on M-Th 8:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

03/17/2007


Robert E Pezzuto
Supervisory Patent Examiner
Art Unit 3714